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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,946	07/19/2006	Armin Sjoerd Eijssackers	097298-0135	8305

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FOLEY & LARDNER LLP  
777 EAST WISCONSIN AVENUE  
MILWAUKEE, WI 53202-5306

EXAMINER
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SMITH, PRESTON

ART UNIT	PAPER NUMBER
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1782

MAIL DATE	DELIVERY MODE
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08/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Supplemental  
Notice of Allowability**

Application No.

10/565,946

Examiner

PRESTON SMITH

Applicant(s)

EIJSACKERS ET AL.

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/1/2009.
2. ☒ The allowed claim(s) is/are 1,3-6,8,10,12-20,23,25-29,31-34,37, and 40-43.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|  | 9. <input type="checkbox"/> Other _____.   |

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**\*SUPPLEMENTAL ALLOWANCE\***

**DETAILED ACTION**

**EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Scott Anderson on 4/8/2010 and 4/9/2010.

**Applicant's representative, Scott Anderson, gave examiner authorization on 4/8/2010 to move the limitations of claims 38 and 39 into claim 1. Claims 38 and 39 are cancelled. Claim 1 as amended now recites:**

A package for preparing a refreshment, the package including a package space containing a gas and an at least a partly foamable liquid wherein the package is provided with at least one manually operable element with which a displacement of the gas and the liquid in the package can be effected such that foam formation occurs in the package space wherein the package space comprises at least two chambers mutually connected by a channel located there between, the liquid and the gas being

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displaceable between the at least two chambers via the channel, wherein the channel is associated with a fluid flow disturber for causing turbulence in fluid flowing between the at least two chambers, wherein each of the at least two chambers is configured for being varied by the at least one manually operable element at least as to shape, wherein the at least two chambers are each defined by a flexible wall, wherein alternating distortion of the flexible wall at least partially defining each of the at least two chambers, is configured to cause the liquid and gas to flow through the flow disturber to effect foam formation.

Applicant's representative, Scott Anderson, gave examiner authorization on 4/8/2010 to change "package" to -- apparatus -- in claim 43. Claim 43 as amended now recites:

The apparatus according to claim 42, wherein squeezing of the first chamber changes the volume and space of the first chamber, and squeezing of the second chamber changes the volume and shape of the second chamber.

Applicant's representative, Scott Anderson, gave examiner authorization on 4/9/2010 to change the dependencies of claims 10, 12, 23, 27.

Claim 10 as amended now recites:

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The package according to Claim 1, wherein the fluid flow disturber comprises at least one of a constriction, a guaze, or grid.

Claim 12 as amended now recites:

The package according to Claim 1, wherein at least one of the at least two chambers is at least partly filled with the gas.

Claim 23 as amended now recites:

The package according to Claim 1, wherein at least a part of the package is made from a flexible material.

Claim 27 as amended now recites:

The package according to Claim 1, wherein the at least one manually operable element comprises a piston within the package space and which can be operated from outside the package.

***Allowable Subject Matter***

Claims 1,3-6,8,10,12-20,23,25-29,31-34,37 and 40-43 allowed.

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The following is an examiner's statement of reasons for allowance: The closest prior art of record, Frank Brady, US-Patent 5,939,122 and Jurgen Zimmermann, US-Patent 4,306,492 fail to teach or render obvious a flexible package having at least two chambers wherein the flexible package is distorted to force fluid flow between a channel or "fluid flow disturber" located between the chambers in order to create foam.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRESTON SMITH whose telephone number is (571)270-7084. The examiner can normally be reached on Mon-Th 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on (571)272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Drew E Becker/  
Primary Examiner, Art Unit 1782

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